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IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-434

WILLIAM G. MILLIKEN, et al.

Petitioners,

v.

RONALD G. BRADLEY, et al.

Respondents.

and No. 73-435 and No. 73-436

BRIEF AMICUS CURIAE OF CITY OF HARTFORD, CONNECTICUT IN SUPPORT OF RESPONDENT, BRADLEY

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AMICUS CURIAE AUTHORITY

The City of Hartford, a political subdivision of the State of Connecticut, is filing this Brief Amicus Curiae sponsored by its chief law officer, the Corporation Counsel, as duly authorized by formal vote of the Court of Common Council of the City of Hartford, pursuant to Rule 42 (4) of the Rules of the Supreme Court of the United States.

INTEREST OF THE CITY OF HARTFORD

The City of Hartford, a political subdivision of the State of Connecticut with a population of 155,000, has a vital, direct and immediate interest in this case, more particularly as to the nature and extent of the desegregation remedy this Court may prescribe. The decision here will have an enduring and critical effect upon metropolitan areas in this country and will shape and structure the future relationships between city and suburb, between black and white, between poverty and wealth.

The District and Appellate Courts have held that the coterminous boundaries of the city and the school district of Detroit do not have a racially neutral effect upon school systems in the Detroit metropolitan area; rather, that the existence of said boundaries, coupled with certain affirmative acts of State school authorities, has caused and continues to cause and promote racial segregation between schools located in Detroit and those located in its surrounding suburbs. The Petitioners argue not only that school district lines in the Detroit metropolitan area delineate geographically separate entities, but also, that said districts are legally, socially and politically unrelated and independent units. Following this rationale, the Petitioners suggest that the proposal that suburban school districts be included in the desegregation plan was erroneous and contrary to law, and further that a

"Detroit only" plan of desegregation is the constitutionally adequate and the only permissible remedy.

The 27,000 public school students of the City of Hartford are confronted with conditions similar to those in Detroit in that, within the context of school district lines having been geographically established on a town-by-town basis, segregation exists to such an extent as to create racially identifiable schools within the city and between the city and its surrounding suburbs. In Detroit, however, no systematic congruence between town and school district is found.

In a suit presently pending in the United States District Court for the District of Connecticut, instituted by the Mayor and the members of the Court of Common Council, the City of Hartford alleges, on behalf of its citizens, that the Connecticut State Department of Education has created and maintained racially-identifiable schools and that through its official policies and administrative actions, has licensed and sanctioned the containment of minority student concentrations in the city proper.

Further, it is alleged that said acts have contributed to and promoted the white identity of suburban schools, thereby creating a dual school system which violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. (*City of Hartford et al.* v. *Thomas Meskill, et al.*, Civil Action No. 15074, D. Conn. May 30, 1972.)

The Board of Education of the City of Hartford and the Connecticut State Department of Education are also parties Defendant in a school desegregation suit instituted in 1970. (*Kenyetta Lumpkin, et al.* v. *Thomas Meskill, et al.*, Civil Action No. 13,716, D. Conn. Feb. 20, 1970.)

The desegregation remedy determined by this Court will tangibly and gravely affect the scope of any remedy to be ap-

plied in either or both of the pending Hartford cases. The dual school system existent in the Hartford region is similar to that in the Detroit region. In both metropolitan areas the systems are constitutionally obstructive and should be dismantled, or made permeable on a metropolitan area basis commensurate with the scope and extent of the harm inflicted upon their respective public school students.

QUESTION PRESENTED

Is a metropolitan remedy to *de jure* segregation as found in Detroit constitutionally adequate, appropriate and feasible under the Equal Protection Clause of the Fourteenth Amendment and under the decisions of this Court?

ARGUMENT

I. INTRODUCTORY BACKGROUND

A. The Structure of Changes in Detroit and Hartford fit into a Pattern of Development in the Nation's Metropolitan Areas.

The involvement of both the Hartford School District and the Detroit School District in Federal District Court desegregation suits is not an adventitious circumstance. To the contrary, correlative to developments in their respective public school systems over the past two decades, patterns of economic and social interdependence have acted to create conditions within each city which are, today, essentially similar.

In the early 1950's, the public school population of both cities was predominantly white-dominated. Each of these cities was fiscally sound and had no difficulty providing needed public services for all its citizens; and each continued to attract new business investment within its municipal boundaries.

By 1970, these conditions had been dramatically reversed. Detroit and Hartford, like scores of other United States cities, fit into a national pattern of metropolitan development which has left the central cities in a state of crisis and decay. Over the past twenty years, a methodical, pervasive and continuous depletion of affluent white households from the central cities, resulting in part from racial segregation in the schools accompanied by the in-migration of blacks and low-income households, upset the population balances needed to maintain the stability and vitality of these urban communities. This exodus to the suburbs of the economically-advantaged households and of the business community which serves them precipitated an erosion of the tax base which, concurrent with the increased costs of providing needed public services, contributed greatly to the phenomenon which is now known as the "Urban Crisis".[1] The forces which shaped the emerging structure of legal, political and socio-economic relations are complex and protean and need not be chronicled here. There is, however, one salient factor which, because of its importance, merits attention of this Court in its deliberations of the instant case.

A major contributory cause of the spiral of urban decay which has characterized the central cities of this nation in the intervening years since 1954, has been the concerted, evasive and illegal policies and administrative actions of state school authorities to circumvent, subvert, and neutralize this Court's mandate as established in the historic decisions, *Brown* v. *Board of Education of Topeka*, 347 U.S. 483; 74 S. Ct. 686; 98 L. Ed. 873 (1954); *Brown* v. *Board of Education of Topeka*, 349 U.S. 301; 75 S. Ct. 753; 99 L. Ed. 1083 (1955).

II. STATE SCHOOL AUTHORITIES, FOR THE STATE OF MICHIGAN AND ELSEWHERE IN THE COUNTRY, THROUGH AFFIRMATIVE ACTS, HAVE FOSTERED, NURTURED, AND PROMOTED THE USE OF SCHOOL DISTRICT BOUNDARY LINES TO ACCOMPLISH THE SEGREGATION OF PUBLIC SCHOOL CHILDREN ON THE BASIS OF RACE AND ARE, THEREFORE, IN CLEAR VIOLATION OF EQUAL PROTECTION GUARANTEES AS ESTABLISHED UNDER THE FOURTEENTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES.

A. Policies and Instruments of Segregation Existed Prior to Brown I

In the historical period previous to 1954, the policy of segregating and isolating public school children on the basis of race was usually accomplished *within* school *districts*. In some instances, all black districts were operated as separate administrative units. The instruments for achieving racial segregation in public schools differed by region of the country. Southern states were direct and perhaps more forthright in their discrimination, while Northern states effected racial segregation of school children by more subtle and hypocritical means.

In the Southern regions of the country, state systems of public education, as administered through local school boards, operated within a context of state laws which explicitly provided for the separation of races within the confines of each school district. In the North, absent such state laws, racial segregation within school district boundaries was achieved by a variety of administrative decrees, by school

construction, and by drawing school attendance zones in conformance with segregated housing patterns.

Since in a growing, mobile society, the housing patterns of these racially-identifiable communities did not remain demographically stable, an increase in the numbers of children residing within existing school attendance zones and shifts in the geographic distribution of minority housing were accommodated through two mechanisms which had the effect of affirming or re-establishing racial segregation within school districts. Such *increase in the numbers* of public school children within school attendance zones were absorbed through a policy of allocating funds for the construction and placement of new school facilities on the basis of race. In response to *shifts* in housing patterns which threatened to alter the racial identity of school attendance zones, local school authorities adopted a pattern of optional attendance zones, transfer policies, and the gerrymandering of zones to achieve maximum racial segregation.

In summary, the pattern of public school segregation which emerged from the pre-1954 period was one of racially separate school attendance zones in the North and racially separate schools in the South. Each system effectively created racially identifiable schools, thereby yielding a similar result.

B. This Court's Holdings in Brown I and II Altered The Pattern of State Segregatory Practices in Public Schools.

In the years immediately following *Brown I*, the implementation of this Court's order through the creation of unitary, non-discriminatory school systems within certain muni-

cipal school districts, did not take place to any substantial degree. What token or piecemeal changes did take place were not sufficient to counteract the effects of increasing numbers of minority children in the center city and an intensified racial exclusion of blacks from most suburban areas.

School district lines ceased to function merely for the purposes of state administrative convenience, but rather assumed a new meaning which, with the passage of time, would come to have broad socio-economic and legal implications. Already under pressure from demographic changes and, having been denied the freedom from judicial scrutiny or constraint which it had historically enjoyed, intra-district segregation evolved with the growing black population to segregation between central city school districts and those of the suburbs.

While school district boundary lines had historically separated suburban school children from their urban counterparts prior to 1954, they did not have the effect, nor were they generally used as a device, to contain and separate minority children from their white school counterparts. With the increasing threat of the actualization of desegregation of central city schools, and as administrative devices within cities failed to keep certain schools white, these legal, political, and geographic boundaries began to intrude upon and contribute more substantially to the residential location decisions of mobile, white families.

Within the period since *Brown I and II*, through its subsequent decisions, this Court has elaborated, extended and defined its intent and the methods to be used to eliminate all vestiges of state-imposed segregation from the public schools.

Green v. *School Board of New Kent County*, 391 U.S. 430; 88 S. Ct. 1689; 20 L. Ed. 2d 716 (1968);

Swann v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1; 91 S. Ct. 1267; 28 L. Ed. 2d 554 (1971).
Keyes v. *School District No. 1, Denver, Colorado*, 413 U.S. 189, 93 S. Ct. 2686; 37 L. Ed. 2d 548, (1973);

It should be borne in mind that, with the erosion of the power of school attendance zones within school districts to separate geographically white from minority students, white families with sufficient income could seek sanctuary from changing school enrollments by establishing residence in white suburbs from which blacks were generally excluded. Just as the scope and extent of school segregation had been determined in the Northern states by fixed school attendance zones within school districts in the pre-1954 period, in the years following *Brown I*, the scope and extent of segregation between school districts throughout the nation was predicated upon the boundary lines between school districts.

A critical element which, both before and after 1954, contributed to and shaped the residential location decisions of relatively affluent white households was their expectation that the effects of public racial segregation and private prejudice and low income would effectively restrict and contain the residence of black families to the ghetto areas of the central cities.[2]

C. Affirmative Acts of Public Authorities Provided A Segregation Environment for Both School and Residential Location Decision.

The decisions of literally millions of white households to reside in the suburbs contributed to and shaped the patterns of segregation which presently exist between city and suburban school districts[3]. The actions of individuals, however, in their private capacities are not at issue in the instant case. An important distinction exists beween the right of an individual to choose his or her place of residence, which is afforded the protection of the United States Constitution, and

actions taken by public officials which have the known and foreseeable consequence of denying another class of individuals their constitutional rights. Whereas a wide latitude of permissible behavior is afforded and sanctioned for individuals, the Constitution requires that government officials, in representing the interests of all people, conform with and adhere to the highest principles and standards of human conduct. This precept has been explicitly recognized with respect to the obligations and responsibilities of school officials in *Brown* v. *Board of Education of Topeka*, 349 U.S. 294; 75 S. Ct. 753; 99 L. Ed. 1083 (1955). II.

During the intervening period from 1954 to the present, state boards of education in Michigan, Connecticut and elsewhere in the nation acted under a policy of complicity and neglect.[4] Having failed, *post Brown*, to eliminate school segregation in central cities at a time when it was possible to do so, the official acts of state school authorities had the foreseeable effect of reinforcing and aggravating existing school and housing segregation. This led directly to a metropolitan community best described as an expanding core of black schools surrounded by a ring of white public schools. Cognizant of the increasing percentage of minority students within the center cities, and with full knowledge that classroom construction in suburban schools was planned for white students, state school authorities affirmed and permitted school district lines to function between city and suburbs in the same manner that school attendance zones had functioned prior to 1954. This policy of state boards and their local agents cannot, however, be characterized as one of benign neglect.

State school officials have not merely acted to sanction and passively condone inter-district segregation; rather, state boards have fostered, promoted, and actively participated in the establishment of racially dual systems of public schools within the metropolitan areas of this nation.

The states, therefore, because of their failure to act, are now faced with the fact that what must be done today will require student assignment across district boundaries.

D. State School Officials, in Michigan and Elsewhere in the Nation, Through Affirmative Actions, Not Only Adapted To The Effects of Demographic Change, But More Significantly, Determined and Structured The Course of Metropolitan Development

Since 1950, dramatic demographic changes had to be planned for, and accommodated by school authorities.

1. Population increased in the nation's metropolitan areas by 44.8 million from 1950 to 1970 (47.4%). (See Table D, Appendix).

2. The population in central cities increased by 10 million from 1950 to 1970; the major increase taking place in the earlier decade. (See Table D, Appendix).

3. Suburban population increased over the period 1950 to 1970 by 85.4%; an absolute increase of 34.8 million (from 40.8 to 75.6 million) (See Table D, Appendix).

4. In 1950, 34.6% of the total white population lived in central cities, but by 1970 the figure had decreased to 27.8%. Net decrease of 2 million. The comparable figures for the black population registered an increase from 44.1% in 1950 to 58.2% in 1970. (See Table D, Appendix).

5. In 1970, 59.4% of the white population in the metropolitan areas was suburban, while 78% of the black metropolitan residents lived in central cities. (See Table D, Appendix).

6. For the white population in central cities, children under 13 years old and adults between the ages of 25 and 44

years were the major age groups which lost population between 1960 and 1970.[5]

Selective subsidies to urban and suburban school districts for the transport of children to and from public schools, varied planning assistance programs, the discretionary administration of federal education grants, and a variety of other activities constitute affirmative actions by state school authorities which have shaped and fashioned their respective systems of education. Paramount among such actions has been state participation in and responsibility for the construction of new school facilities to adapt to, accommodate and plan for changes in the patterns of residence which have characterized our growing, mobile society.

As this Court has noted, decisions of school officials in determining the geographic location of new schools will, in conjunction with school assignment techniques, not only "determine the racial composition of the student body in each school in the system", but will also act to determine and structure the course of metropolitan development.

> "People gravitate toward school facilities, just as schools are located in response to the needs of people. The location of schools may thus influence the patterns of residential development of a metropolitan area and have important impact on composition of inner-city neghborhoods."
>
> *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S., at 20-21; *Keyes* v. *School District No. 1*, 413 U.S., at 202.

The Petitioners would have this Court believe that school districts are separate, unrelated and dissociated from one another. Far from being unrelated to one another, school districts in the suburban towns and that of the central city are

welded together in a relationship predicated on the racial and economic prejudice of the affluent white families who leave the center city so that their children might attend majority white schools in the suburbs. The operation and presence of a minority urban school district, by its very existence, implies and affirms the existence of its white suburban counterparts and is thus intrinsic to the patterns of intrametropolitan migration. As legal and political subdivisions of a greater whole, each element in this relationship necessarily functions to separate school children by race. Just as urban implies suburban, so their relationship implies a prejudicial result.

Separate school districts, in close geographic proximity to one another, having been created and maintained through state action, are elements in and produce the conditions for a process of state-supported racial segregation which, if allowed to run its full course, will result in a geographically dual society, divided by race, in this nation's metropolitan areas.

This is Darwinism of another sort, wherein income levels and racial prejudice intertwine to produce the perverse result which now confronts public officials and private citizens in Detroit, Hartford and other central cities in the Nation. The selection process and the socio-cultural advance of one class of citizens at the expense of another is predicated and founded, not on biological supremacy, but rather on a malignant racism and the income differences which discrimination has produced. What is all the more reprehensible and abhorrent is that this selection process is ratified and legitimized by the policies and administrative actions of state officials. The result of this process is a metropolitan structure which divides one sector of society against another and, as such, is an aberrant form, a mutation, which stands contrary to the Fourteenth Amendment and to the highest and best interests of this nation and its citizens.

III. THE SCOPE OF THE CONSTITUTIONALLY ADEQUATE REMEDY TO SEGREGATED SCHOOLS IS NOW METROPOLITAN. A REMEDY PRESCRIBED ONLY FOR CENTRAL CITY SCHOOL DISTRICTS WOULD CREATE "SEPARATE BUT EQUAL" SCHOOL SYSTEMS.

Two decades ago this Court noted the importance of education as a function of state and local governments and ruled that there was no place therein for the doctrine of "separate but equal." *Brown I* at 495.

In a recent decision, this Court reiterated that:

> "The constant theme and thrust of every holding from *Brown I* to date is that state enforced separation of races in public schools is discrimination that violates the Equal Protection Clause. The remedy commanded was to dismantle dual school systems."

Swann, 402 U.S., at 22.

In the difficult problem of practically dismantling dual school systems, the Federal Courts are faced with two problems. The first is to identify the community of school children, minority *and* white, who have been harmed by state segregative practices; thereby, the Courts define the nature of the constitutional violation. That is, the Courts must first discern the geographic and social extent of the pattern of state segregation before it can frame an appropriate remedy.

The existence of state-created, racially identifiable schools implies the segregation of minority students from the dominant society which is white. Segregation is a *relation*, and as such, the very presence of a separated minority implies and affirms its opposite — the presence of a majority. In determining the nature of the constitutional violation, it is not

enough for the Courts to distinguish those schools which are racially identifiable on a minority basis, but rather it is incumbent upon the Courts to determine the extent to which minorities have been actively separated, through state action, from their white counterparts within and between school districts.

Having so defined the community of school children harmed, the second problem facing the Courts is the framing of a remedy which would meet the criteria of being both constitutionally-adequate, as well as being "practically flexible" in its application. This Court has made explicit note, however, that in the framing of a remedy the overriding consideration is the constitutional adequacy of any plan of desegregation.

In 1955, when it rendered its decision in *Brown II*, the Court recognized that differing fact situations might require a variety of remedies depending on the relevant school community. This Court expressly noted that to eliminate state-imposed segregation it might be necessary to change school district boundaries. In most metropolitan areas, however, segregation could have been sharply reduced if prompt action had been taken by limiting it to the central cities. What could have been done was not done. That is why we are here today.

A. The Relevant School Community In The Nation's Metropolitan Areas In 1954 Was the Municipal School District.

The racial geography of schools in the Topeka region at the time of the *Brown* decision was congruent with that found in most metropolitan regions elsewhere in the United States. In 1954 most of the nation's metropolitan regions were characterized by the racial domination of white school children *both* within the central cities *and* in their traditionally white suburbs. The implications of this demographic pattern

for court-ordered desegregation were far-reaching and extensive.

Although in the subsequent two decades the minority concentrations would increase universally within central cities, in 1954 only certain of the nation's cities had any appreciable minority representation. However, in 1954, significant variation could be found in the degree of concentration between regions and cities; witness, other selected cities appearing in Table I.

TABLE I MINORITY STATUS IN CENTRAL CITY SCHOOLS 1954

(PER CENT ENROLLMENT IN SCHOOLS)

Atlanta	43.7	Newark	31.0
Baltimore	36.4	New Haven	15.3
Beaumont	33.2	New Orleans	41.6
Buffalo	10.1	New York City	15.2
Charlotte	40.8	Oakland	28.0
Chicago	20.7	Philadelphia	31.2
Cincinnati	30.0	Pittsburgh	21.6
Cleveland	29.1	Richmond	44.1
Dayton	21.9	St. Louis	30.5
Detroit	27.2	San Francisco	20.9
Gary	39.4	Topeka	9.6
Harrisburg	21.3	Trenton	25.2
Hartford	17.1	Washington, D.C.	57.2
Memphis	42.8	Wilmington	27.9

*Representative selection of cities with high minority population concentrations chosen from the *Report of the Commission on Civil Rights* and from *Metropolitan Area Statistics*. The methodology employed to derive the data for the year 1954 is outlined in Table II. In interpreting the data, it is necessary to assume a minority representation in all schools within each school district which approximates the percentage level of minority students within the school district as a whole. *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 25.

The data presented in Table I substantiates that, even in those metropolitan areas which had high concentrations of minority school children resident in their central cities, it was possible in 1954 to establish unitary non-discriminatory school districts *within* the central cities.

B. The Relevant School Community For Purposes of Desegregation Is Now Metropolitan, Not Municipal.

Although the relevant school community within which to dismantle dual school systems was the central school district in 1954, quite the opposite was true by the end of the decade of the 1960's.

The data depicted in Table II, when compared with Table I, substantiates that, had the courts mandated the abolition of dual school systems in 1970 solely within existing central city school districts, the resulting increase in the number and percent of minority-identified schools would have produced nothing short of the establishment of a geographically expanded dual system of public schools between districts in most metropolitan regions.

Over those intervening years from 1954 to 1970, the increase in resident white population in central cities subsided and, from 1960 to 1970, even declined by 600,000. Correlative decreases in the number of white children attending public schools in central cities were even greater due to the expanded enrollment of white children in private schools. In essence, the numerical and the proportional increase of minority children in central city school systems passed a critical threshhold, whereby the magnitude of the minority school population in central cities came to overwhelm the dominant white majority.

The state school boards, having accommodated the *initial* increases in the number of white children within suburban school districts, discouraged *further* in-migration to the central cities and, in the process, set the parameters within which took place the *subsequent* exodus of young families with children to the suburbs.

Just as state support of dual school systems shifted from within, to between school districts, so too, the community of children harmed by state segregative actions also shifted and

TABLE 2 MINORITY STATUS IN CENTRAL CITY SCHOOLS 1950-1970

(PER CENT ENROLLMENT IN SCHOOLS)

	1950[1]	1954[2]	1960[3]	1970[4]
Atlanta	41.1	43.7	43.9	65.7
Baltimore	27.2	36.4	50.1	65.7
Beaumont	33.1	33.2	33.3	40.4
Buffalo	7.6	10.1	29.4	39.0
Charlotte	53.4	40.8	32.4	33.1
Chicago	15.5	20.7	28.5	63.8
Cincinatti	27.9	30.0	33.1	44.9
Cleveland	18.8	29.1	44.5	60.8
Dayton	16.6*	21.9	29.9	43.8
Detroit	16.7	27.2	42.9	64.2
Gary	32.9*	39.4	49.1	73.3
Harrisburg	15.2*	21.3	30.4	20.3
Hartford	15.3	17.1	25.7	64.6
Memphis	41.6	42.8	44.5	50.7
Newark	34.4	31.0	54.2	79.5
New Haven	7.9*	15.3	26.3	56.1
New Orleans	38.4	41.6	46.4	67.3
New York City	14.7	15.2	21.1	53.5
Oakland	26.4	28.0	34.5	66.4
Philadelphia	20.8	31.2	46.7	61.1
Pittsburgh	14.5	21.6	32.2	38.3
Richmond	42.0	44.1	42.0	55.8
St. Louis	18.7	30.5	48.3	59.1
San Francisco	12.9	20.9	32.8	46.4
Topeka	9.2	9.6	10.2	17.4
Trenton	15.4*	25.2	39.8	70.5
Washington, D.C.	43.6	57.2	77.5	94.1
Wilmington	18.2*	27.9	42.5	75.8

* Approximation

Sources:

1. U.S. Bureau of the Census, U.S. Census of Population 1950. Vol. II, Characteristics of the Population, Parts 5, 7, 8, 9, 11, 13, 14, 16, 18, 20, 22, 30, 32, 33, 35, 38, 42, 43, 45, Table 34, U.S. Government Printing Office, Washington, D.C., 1952.

2. Straight line interpolation.

3. U.S. Bureau of the Census, U.S. Census of Population: 1960. Vol. I, Characteristics of the Population. Part 6, 8, 9, 10, 12, 15, 16, 18, 20, 22, 24, 32, 34, 35, 37, 40, 44, 45, 47, Tables 73, 77.

4. U.S. Bureau of the Census, Census of Population: 1970. General Social and Economic Characteristics, Final Report PC(1)-C, 8, 9, 10, 12, 15, 16, 18, 20, 22, 24, 32, 34, 35, 37, 40, 44, 45, 47, Tables 83, 91, 97.

expanded geographically to include white suburban school children.

C. Re-segregation Within the Central City School Districts Is a Symptom of Regional De Jure Segregation.

In formulating a remedy in the instant case, involving a community of children in the Detroit region, the District Court and the Sixth Circuit Court of Appeals confronted the same two basic issues which this Court adjudicated in *Brown I and II*. The first issue, that of defining the nature of the constitutional violation, calls upon the courts to ascertain the geographic and social extent of state-imposed segregation of white from minority children. Because *de jure* segregation is a dual relation which effects a separation of white from minority as well as minority from white, the critical distinction for the courts in defining the community of children harmed, both minority and white, is not the quantitative enumeration of the visible minority which have been segregated from the surrounding white society. To the contrary, the issue is to distinguish and separate the surrounding white society into two parts — (1) that part of the white majority circumscribed by the *de jure* actions and policies of the state and (2) that exurban sector of the white majority which is segregated *de facto* from the suburban white and the urban minority. More specifically, the problem the Courts have to resolve is the identification and separation of those particular white-dominated schools influenced by state action and which, therefore, fit into the total pattern of *de jure* segretation.

With the nature of the constitutional violation defined, the second major issue, that of practical implementation, admits of no easy solution. The process of dismantling dual school systems has been complicated, and in some cases thwarted entirely, by the shifts which have taken place in the racial composition of those neighborhoods and schools affected

by court orders. This problem has nowhere been more severe than in the central city school districts. This Court, in *Swann*, has acknowledged the difficulties associated with attempts to establish unitary school systems:

> "This process has been rendered more difficult by changes since 1954 in the structure and patterns of communities, the growth of student population, movement of families, and other changes, some of which had marked impact on school planning, sometimes neutralizing or negating remedial action before it was fully implemented."
>
> *Swann*, 402 U.S., at 14.

In this era of "evolving remedies" subsequent to *Brown*, the courts often *precipitate* demographic change through the implementation of a remedy which is bounded within too narrow a geographic area. By not embracing the entire region in which the process of segregation has taken place when establishing unitary school systems, the courts run the risk of increasing the long-run minority concentrations in court-affected areas through a process of resegregation. The "white flight" to the suburbs which acts as a parameter and facilitates resegregation within the central cities is, however, founded upon a larger underlying pattern of *de jure* segregation.

A rapid transition of a school district from majority-white status to a preponderance of minority students, such as that which has taken place in Detroit (See Tables I and II), implies a relation between minority and majority which traverses and extends beyond the school district boundaries. The racial displacement of white with minority students within a central city school district would not be possible were it not for the receptive environment created within contiguous suburban towns which absorb white out-migration. It is only because of the relative attractiveness created in the suburbs, coupled with prejudice, that individual household decisions to relocate

can combine to produce a total pattern of racial segregation which is regional.

Such a pattern of out-migration is contingent upon four factors which support the white exodus and which, obversely, contain minority households in the central cities: (1) the higher income levels of white households; (2) the freedom of social mobility within the larger society; (3) the geographic proximity of suburb to city to the extent that traveling time and distance from the new location allows the out-migrant household to maintain employment and social contacts within the region, and (4) the existence of new residential and school construction in the suburbs. The salient and essential characteristics common to the out-migrants is that they remain constituents of the regional economy and society.

D. The Nature of the Constitutional Violation in the Instant Case Compels the Affirmation and Adoption of a Metropolitan Remedy.

In order to delineate a pattern of *de jure* segregation which is regional, it is necessary to specify state policies and administrative actions which have separated the whites who have out-migrated from the minorities remaining in the central cities. Both the record herein and the data in Tables I and II indicate that the collective effect of individual location decisions has been to structure the economic and social geography of the City of Detroit and its surrounding region. The record, then, reveals a pattern of regional segregation which has two distinct aspects: (1) effective segregation has taken place within the school system of the City of Detroit, and (2) segregation has increased and continues to increase between the school system of the City of Detroit and that of its surrounding suburbs.

The State of Michigan, through its local agent, the Detroit School Board, has admitted and the Courts have found that,

de jure segregation existed within the School District of Detroit. The State, having admitted to only one aspect of the regional pattern of *de jure* segregation, does not thereby limit the extent of its responsibility for creating inter-district segregation in the Detroit region.

Over the years since *Brown*, the School Board of the State of Michigan and its local agents have undertaken a massive school construction program, the segregative consequences of which were known and foreseeable. Over the period from 1954 to the present, well over 400,000 students have been accommodated in suburban school districts in the Detroit region[6]. And from 1967 to the present, the school Boards in the Detroit region have reported the racial composition of their student body both to the federal government and to the Michigan State Board of Education[7]. In light of these facts, the complicity and active participation of the School Board of the State of Michigan, in determining the pattern of segregation within and between districts, cannot be ignored or denied. The Petitioner's contention, therefore, that the nature of the constitutional violation is defined within, and contained and restricted to segregative acts of school authorities within the school district of Detroit, is transparent and tenuous and should be discarded as being without basis in fact or in law.

The Respondents reasoned, to the contrary, that in light of the high and increasing concentrations of minority children in Detroit's schools, the pattern of *de jure* segregation extended to white schools in the suburban townships and, therefore, required a metropolitan remedy to assure the establishment of a unitary school system. At each step of the progress of the instant case the courts found in favor of the Respondents and took steps toward the implementation of an inter-district remedy.

Essentially the courts found a pattern of state education in the metropolitan area which was one of an expanding core of black schools with a ring of white suburban schools. Again, the blackness of the schools is directly related to the whiteness of other schools in the area. The courts simply examined the entire area affected by the remedy in light of the *Swann* limitation of "time and distance". No governmental structure has been upset. Rather, state authorities have suggested, and Respondents agreed, that pupils and staff could be exchanged by contract (a not unfamiliar governmental arrangement). The question of redrawing districts when necessary has been left, just as in reapportionment cases, with the State Legislature.

The central and critical issue here is that of student assignment. In arguments in the record, and in those put forth by the City of Hartford herein, it has been amply shown that the nature of the constitutional violation is regional and is in no way contained solely within the school district of Detroit. Therefore, this Court can do no other than uphold and affirm the finding of the Sixth Circuit Court of Appeals that, in dismantling the dual school system, a metropolitan remedy is constitutionally required. To do otherwise, and to order a "Detroit-only" solution as has been argued by the Petitioners, would re-instate, re-establish, and give sanction to a "separate but equal" system of schools in the Detroit region.

IV. THERE IS AN INHERENT AND ESSENTIAL UNITY BETWEEN THE INTEREST OF CENTRAL CITIES AND THEIR SUBURBAN TOWNS FORGED BY DOMINANT LONG TERM FORCES WITHIN THE ECONOMY.

The structure of metropolitan areas has been formed by a myriad of factors among which the technologies of modern production and distribution are probably most significant.

Prior to the turn of the century, reliance on horse and rail transportation, on telegraph and messenger service, on multi-storied manufactories, and on small-scale retail outlets combined to contain and circumscribe the limits within which urban economic activity could efficiently function. Early production technologies were simple, requiring only a modicum of land and capital. As new technologies were developed and integrated, more and larger units of capital were required, and as a result, the suburbs became relatively more attractive than the city for the location of new manufacturing activity. The advent of high rise office buildings simultaneously transformed the profile and character of the city.

America entered the 20th century with an industrial economy which attracted even more activity and greater numbers of people to its already flourishing central cities. In the South, Midwest and West these industrial and residential increases were accommodated through the creation and rebuilding of entire cities; e.g., Atlanta, Phoenix and Los Angeles. As manufacturing activity continued its growth, these cities faced the identical space constraints endemic to the older, Northern urban areas. The density of industrial activity within all cities reached critical levels and spilled over existing city boundaries. Suburbs became the necessary adjuncts to the industrial activity situated within the cities of metropolitan areas throughout the nation.

This new structural balance in metropolitan areas altered the functional relationship between city and suburb. As new manufacturing enterprises were accommodated in the land-rich suburbs, central cities expanded their role as the regional base for corporate headquarters, financial institutions and the various other professional services required in the movement of goods from their point of production to their final destination. The re-allocation of economic activity between city and suburb was accompanied by greater economic

efficiency and higher levels of productivity. A synergistic effect was created wherein producers, although locationally discrete and physically removed from all others, became increasingly interdependent in order to meet the needs of regional residents and the demands of national and international markets.

The hegemony of the central city declined as the level of regionwide economic activity increased. These changes were reflected by a shift in regional commutation patterns and a marked increase in the degree of interaction *between* city and suburb. Town lines in the metropolitan complex were being traversed not only by suburban commuters working in the central city, but by city residents as well, seeking the employment opportunities offered within the suburban ring.

A. Developments in Technology and the Economy Accelerated Suburban Residential Growth.

While technological changes were transforming the spatial allocation of production activities, a metamorphosis in the pattern of residential land use was taking place as well. Prior to the turn of this century, American society was an amalgam of rural and urban places. The suburbs had not yet developed to significant proportions and, consequently, the majority of metropolitan area residents lived and worked in the central city. Technological developments in the early part of the century, however, soon altered this pattern. The ubiquity of the private automobile, telephone, and television enabled individuals to live at increasingly distant locations from their places of employment, recreation, and shopping, while continuing to interact with the central city. The inexpensive land in rural and suburban areas, coupled with easily obtained mortgages, and the rising income levels generated by the increasingly productive metropolitan economy, allowed families to enjoy less crowded living quarters than those available to urban residents.

In the post World War I period, the accelerating demand for low-density residential housing quickly outstripped the available supply of land within the city boundaries. During this period of expansion, the ability of the city to annex contiguous residential areas was precluded by the existence of political boundaries. Where boundaries did not previously exist, the new suburban expansion necessitated their creation. In other cases, existing rural towns near the city were simply engulfed by residential development. The result was an economically integrated metropolitan region fragmented by a variety of jurisdictional lines.

B. The Increasingly Complex Socio-Economic Interlock Between City and Suburbs Altered the Balance Between the Interests of Individual Communities and Those of the Larger Metropolitan Region as a Whole.

In the early period of suburbanization, the suburban towns were distinct communities, each with its own particular flavor and, as a group, decidely different in structure and function from the central city. The undeveloped open spaces and the strictly residential character of most of these towns created a life style altogether different from that of their urban counterparts. Their governmental structures were simpler, their finances less complicated, and their problems primarily local community issues easily resolved with active participation by all interested parties. During this formative period, while each unit of the metropolitan community evolved and extended its own local identity, the central city remained the nexus of all intercommunity activity — economic political, social, cultural and educational — and thus embraced and represented the metropolitan identity.

As the technological shifts and economic exigencies gave impetus to the urbanization of the suburbs, the residents of the suburban towns and their representative governments

were confronted with the problems of resolving the multi-faceted issues arising from the existence of large industrial and commercial establishments within their jurisdictions. The regional interlock of these large firms, resulting from their employment of workers and their purchase of supplies from firms in other metropolitan towns, as well as their use of services located in the central city, forced a shift in the scope of local decision-making away from local autonomy and towards regionalism.

C. Metropolitan Community of Interest Was Legitimized and Made Formal by Private Citizens and All Levels of Government.

As the city and its suburbs evolved into an economically integrated region, narrowly defined parochial interests could no longer dominate the thinking of community leaders. The shift towards metropolitanism, as above described, was a result of increasing regional interlock and growing similarities in the economic and social structure of city and suburb. This growing community of interest has manifested itself in the increasing number of co-operative agreements entered into by both the representative bodies and administrative agencies of these municipalities and by private citizens alike. The following are examples of the institutionalization of the regional community of interest (See Appendix III).

LOCAL:

1. The municipal governments of suburbs and cities have created numerous authorities to provide public services on a regionwide basis in such areas as planning, public health, public safety, mass transit, water and sewer systems, as well as in special educational services; and

2. Private citizens of these communities have set up co-operative agencies to meet the diverse needs of

regional residents. Chambers of commerce, councils of churches, centers for the treatment of drug abuse and alcoholism, and sundry other business and social service organizations are examples of these private and non-profit co-operative institutions.

Parallel to these changes, officials at state and federal levels have recognized the community of interest between city and suburb by assigning regional bodies the responsibility for carrying out, and the authority for overseeing, the administration of a variety of State and Federal programs.

STATE:

1. The creation of state administrative districts within regions in order to facilitate governmental functions adheres to the *intrinsic unity* of city and suburb. Judicial districts, environmental regions, welfare districts, police units, tax districts, and civil defense areas are exemplary of these administrative districts.

2. State-approved and funded regional planning agencies, which exist in every state in the nation, are assigned the responsibility for coordinating growth and for providing public planning services within their jurisdictions.

FEDERAL:

1. The central city and its surrounding region, because they are viewed as an important socio-economic unit, constitute the main focus of much of the statistical activity of the federal government. The two major geographical loci of information-gathering are the Standard Metropolitan Statistical Area of the Bureau of the Census and the Labor Market Area of the Bureau of Labor Statistics, both of which are defined on the basis of

interaction between central city and its contiguous area. Standard Metropolitan Statistical Area is defined by the Bureau of Census as containing one or more central cities with a combined population of at least 50,000 inhabitants, and with contiguous towns in "the region which are socially and economically integrated with the central city."[8]

2. Metropolitan regions, because they have evolved to the point wherein they are functionally unified, are eligible for, and are prime targets of, federal funds for economic development. Most outstanding among these are the HUD 701 Comprehensive Planning Grants, Economic Development Agency Grants and Manpower Administration Training Funds.

Not only has the Federal government recognized the economic and social community of interest between city and suburb through numerous economic development grants, but it has also explicitly acknowledged the metropolitan dimension of the racial isolation of central city school children. The 92nd Congress of the United States appropriated substantial public funds under Title VII of the Educational Amendments of 1972 for the purpose of "dealing with conditions of segregation by race in the schools of local educational agencies of any State without regard to the origin or cause of such desegregation" (20 U.S.C.A. § 1602). Provision has been expressly made for the joint development, by a group of local educational agencies located in a Standard Metropolitan Statistical Area, "of a plan to reduce and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in the SMSA." (20 U.S.C.A. § 1608).

D. The Growth Of Metropolitan Areas Has Been Subverted By Divisive Forces.

During this century, the cities and suburbs in the nation's metropolitan areas have experienced an unprecedented economic growth predominantly influenced and shaped by the forces of a new technology. The essential unity between the interests of central cities and their suburban towns has been forged by these salutary economic trends.

Since 1954, however, an ominous and antagonistic social force, has surfaced to disrupt and stifle the heretofore prevailing forces of a progressive economy. This unsettling force is, significantly, the pattern of population shifts caused by the effects of school segregation and school district lines on residential location. The complicity of state school authorities in giving shape to this antagonistic force is amply recited above.

The balance between city and suburb has been adversely affected by the accelerated out-migration of white families and economic activity in the post *Brown I* era. The combined cumulative effect of the location decisions of people and business have led to rising social and economic costs both in the suburbs and the city. The sprawling overdevelopment of the suburbs stands in contrast to the disinvestment, poverty and virtual bankruptcy of urban governments engulfing the cities in an inexorable spiral of decay.

It is noteworthy, however, that what began as a mere disruptive influence has now come to threaten and subvert the equilibrium and unity between city and suburb to the point where it will corrode and blight the body politic of our metropolitan areas.

CONCLUSION

In light of the foregoing, we respectfully urge this Court to affirm the decision of the *en banc* Sixth Circuit Court of Appeals as the only sound, feasible and effective course to meet the controlling standards established by *Brown I and II*. The nature and scope of the remedy are defined by the nature and scope of the injury. It is impossible, in any meaningful sense, to desegregate a racially homogeneous, large core-city school district such as Detroit or Hartford, *The empirical realities compel a regional remedy to redress an essentially regional harm to both white and nonwhite students.*

The insular course advanced by the Petitioners is not a proper judicial corrective. A "Detroit-only" remedy cures nothing. It contravenes the *Brown* mandate by invidiously polarizing the races. Indeed, it well exacerbates and accentuates the proscribed dual system by resegregation. Above all, it ineluctably portends a 100% minority "unitary" Detroit school district.

If such narrow remedy were adopted and followed, it would dilute, if not nullify, the great desegregation principles enunciated by this Court since 1954. It would revive the discredited "separate but equal" doctrine and, ironically, recreate and re-establish within our core-cities the very separate and *unequal* system of public education long outlawed by this Court. In short, the intra-district remedy represents a regression to the dead doctrines and rigid provincialism of the of the Nineteenth Century. If the federal courts are restricted in providing an adequate remedy for a federal wrong by virtue of state law, we will have returned not to the Constitution but to the Articles of Confederation.

We ask this Court to fashion an *inter-district* plan of student assignment wholly consistent with the existing spectrum of federal, state and local laws prescribing and approving

governmental policies and programs on a regional basis. Having encouraged and reaped the gains of regional growth and development, the State and its suburban surrogates cannot tenably claim that school districts are unrelated and independent of one another. Such facile rationalization cannot be used to circumvent their clear responsibilities to eliminate racial discrimination in public education. It ill behooves those who have profited from the new regionalism to repudiate the city — the source of their profits — by suggesting that the city look to itself for its own remedy. It is indefensible that Petitioners now assume a righteous posture, insensitive to the segregated plight and loss of the urban and suburban school child — a plight and loss which they helped to create and sustain.

The public school children of the metropolitan Detroit and Hartford regions, of whatever race or circumstance, must *in fact* be guaranteed the equal educational opportunity to know and achieve the society of their peers and, in turn, the respect for and understanding of themselves and others. Thus, will their legal rights be secured, their human dignity be maintained, and the true meaning and purpose of the Equal Protection Clause of the Fourteenth Amendment be fullfilled. Thus, can this Court alone, in its commanding power and wisdom, secure such rights, maintain such human dignity and fullfill such meaning and purpose of the Constitution of the United States.

Respectfully submitted,

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February 1, 1974

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NOTES TO TEXT

1.

"As a result of the population shifts of the post-war period, concentrating the more affluent parts of the urban population in residential suburbs while leaving the less affluent in the central cities, the increasing burden of municipal taxes frequently falls upon that part of the urban population least able to pay them.

Increasing concentrations of urban growth have called forth greater expenditures for every kind of public service education, health, police protection, fire protection, parks, sewage disposal, sanitation, water supply, etc. These expenditures have strikingly outpaced tax revenues."

Report of the National Advisory Commission on Civil Disorders, Chairman Otto Kerner (1968) p. 393

"The central cities, particularly those located in the industrial Northeast and Midwest, are in the throes of a deepening fiscal crisis. On the one hand, they are confronted with the need to satisfy rapidly growing expenditure requirements triggered by the rising number of "high cost" citizens. On the other hand, their tax resources are increasing at a decreasing rate (and in some cases actually declining), a reflection of the exodus of middle and high income families and business firms from the central city to suburbia."

Advisory Commission on Intergovernmental Relations, "Urban and Rural America: Policies for Future Growth", A-32, p. 26

"The income disparity between central city and suburban families has increased during the past decade. In 1959, the median family income for central city families ($7,420) was about $930 less than that for suburban families ($8,350). By 1969, about $1,850 separated the median family incomes for these two groups ($9,160 and $11,000, respectively). The median income of central city families decreased from 89 percent of that of suburban families in 1959 to about 83 percent in 1969."

U.S. Bureau of the Census, Current Population Reports, Series P-23, No. 37, *"Social and Economic Characteristics of the Population in Metropolitan and Nonmetropolitan Areas*: 1970 and 1960", P (23) No. 37, p. 2.

2.

"The number of Negroes residing in suburban rings has increased by about 1.1 million persons during the decade. However, the proportion of the metropolitan Negro population living in suburban rings has not increased significantly between 1960 and 1970, remaining at about one fifth. Negroes comprised only about 5 percent of the suburban population in 1970."

Ibid, p. 2.

"Thousands of Negro families have attained incomes, living standards, and cultural levels matching or surpassing those of whites who have "upgraded" themselves from distinctly ethnic neighborhoods. Yet most Negro families have remained within predominantly Negro neighborhoods, primarily because they have been effectively excluded from white residential areas."

Report of the National Advisory Commission on Civil Disorders, Chairman Otto Kerner, (1968) at 244.

"Negro families continue to have incomes far below those for white families. In 1969, the median income for Negro families in metropolitan areas was $6,840 compared to $10,650 for their coun-

terparts. The comparable figures for 1959 were $4,770 and $8,200, respectively. Even though the ratio of Negro to white family income increased from 58 percent in 1959 to about 64 percent in 1969, the dollar difference between their respective medians has increased from $3,430 in 1959 to 3,810 in 1969."

U.S. Bureau of the Census, Current Population Reports, Series P-23, No. 37, "*Social and Economic Characteristics of the Population in Metropolitan and Nonmetropolitan Areas*: 1970 and 1960", P(23) No. 37, p. 2.

"While the proportion of the total metropolitan population living in central cities decreased during the past decade, to a point where the majority (56 percent) of metropolitan residents now live in suburban areas, the metropolitan poverty population has remained concentrated in central cities. About five-eighths of the metropolitan poor lived in central cities in both 1959 and 1969.

"The poverty rates for both white and Negro persons have decreased in all residence categories between 1959 and 1969. However, the poverty rates for Negroes continue to be significantly higher than those for white persons. In metropolitan areas, the poverty rate for white persons was about 7 percent compared to 24 percent for Negroes in 1969. Outside metropolitan areas, the poverty rate for whites was about 14 percent, while about half of Negroes were poor. In central cities, about one in ten white persons was poor. in 1969, as compared to one in four for Negroes. In suburban areas, the poverty rate for whites was about 5 percent, while the rate for Negroes was not significantly different from that in central cities."

Ibid, p. 7.

"In large part, the separation of racial and economic groups between cities and suburbs is attributable to housing policies and practices. The practices of private industry — builders, lenders, and real estate brokers — often have been key factors in excluding the poor and the nonwhite from the suburbs and confining them to central cities. Practices of the private housing industry have been rigidly discriminatory, and the housing it has produced — largely in the suburbs — has been at a price that only the relatively affluent can afford."

U.S. Commission on Civil Rights, A Report: Racial Isolation in the Public Schools, (1967) p. 20.

"Private industry is not alone responsible, however, for the growth of virtually all-white, middle-class suburbs surrounding the urban poor. Government at all levels has contributed to the pattern.

"In addition, the authority of local government to decide on building permits, building inspection standards, and the location of sewer and water facilities, has sometimes been used to discourage private builders who otherwise would be willing to provide housing on a nondiscriminatory basis."

Ibid, p. 21.

3.

"The rich variety of the Nation's urban population is being separated into distinct groups, living increasingly in isolation from each other. In metropolitan areas there is a growing separation between the poor and the affluent, between the well educated and the poorly educated, between Negroes and whites. The racial, economic, and social stratification of cities and suburbs is reflected in similar stratification in city and suburban school districts."

Ibid, p. 17.

"Thus there is a parallel between population and school enrollment trends within metropolitan areas. In both cases, Negro population increases are almost entirely absorbed in the central cities. In both cases, the isolation of Negroes in residential ghettos and Negro schools is growing. The Nation's Capital — Washington, D.C. — already has a majority-Negro population. Other cities are experiencing rapid increases in Negro population. City school enrollments more sharply reflect the trend. A substantial number of cities have elementary school enrollments that already are more than half Negro. In these cities, at least, the problems of racial isolation in the schools can no longer fully be met in the context of the city alone."

Ibid, p. 13.

"The causes of racial isolation in city schools are complex and the isolation is self-perpetuating. In the Nation's metropolitan areas, it rests upon the social, economic, and racial separation between central cities and suburbs. In large part this is a consequence of the discriminatory practices of the housing industry and of State and local governments."

Ibid, p. 70.

4.

"Although residential patterns and nonpublic school enrollment in the Nation's cities are key factors underlying racial concentrations in city schools, the policies and practices are seldom neutral in effect. They either reduce or reinforce racial concentrations in the schools."

U.S. Commission on Civil Rights, A Report: Racial Isolation in the Public Schools, (1967) p. 39.

"Although purposeful school segregation resulting from legal compulsion or administrative action is not often found now in the North, apparently neutral decisions by school officials frequently have had the effect of reinforcing the racial separation of students, even where alternatives were available which would not have had that result."

Ibid, p. 44.

5.

"While the majority of both the white and Negro populations resided in metropolitan areas in 1970 (64 percent and 71 percent, respectively), they exhibited widely different residence patterns. The white metropolitan population was largely suburban (60 percent), while their Negro counterparts were primarily residents of central cities (78 percent). The white population in central cities has, in fact, decreased by about 2.6 million during the past decade. For the white population in central cities, children under 13 years old and adults between the ages of 25 and 44 years were the major age groups which lost population between 1960 and 1970 (Table 1).

U.S. Bureau of the Census, Current Population Reports, Series P-23, No. 37, "*Social and Economic Characteristics of the Population in Metropolitan Areas.*" 1970 and 1960," 1971 p. 2.

6.

U.S. Bureau of the Census, U.S. Census of Population, 1950, Vol. II. Characteristics of the Population, Part 22, Tables 34, 42. U.S. Bureau of the Census, Census of Population: 1970. General Social and Economic Characteristics, Final Report PC(1) 24, Tables 83, 120.

7.

Report Required by Title VI of the Civil Rights Act of 1964 and by Title IX of the Education Amendments of 1972. Section 80.6(b) of

HEW Regulations (45 CFR 80) issued to carry out the purposes of Title VI of Civil Rights Act (20 USCA § 1609; 42 USCA 2000 (d).

8.

U.S. Bureau of the Census, Census of Population: 1970 *General Social and Economic Characteristics*, Final Report PC(1)-C8 Connecticut. Page App.-4.

TABLE A RACIAL CENSUS - HARTFORD PUBLIC SCHOOLS

An Eight-Year Comparison (1965-1972) of Minority Students*

SCHOOL	1965	1966	1967	1968	1969	1970	1971	1972
Arsenal	99.3	99.4	99.5	99.4	99.2	99.7	99.4	99.4
Barbour	96.2	95.7	97.0	95.6	97.0	97.5	97.1	99.4
Barnard/Brown	98.0	98.5	98.8	99.3	99.5	99.6	99.0	99.5
Batchelder	6.2	6.2	8.2	14.7	15.0	13.6	21.2	24.2
Brackett NE	95.5	96.5	96.6	96.6	98.7	99.2	--	--
Burns	5.5	8.2	12.0	15.3	22.0	24.4	26.1	38.6
Burr	2.0	3.3	2.5	7.9	12.6	17.5	18.6	29.6
Clark	99.2	99.7	99.8	100.0	100.0	99.7	99.3	99.5
Dwight	11.2	12.5	12.3	14.6	26.8	26.3	23.9	26.3
Fisher	46.4	52.1	59.7	68.0	77.3	85.5	88.9	92.3
Fox	2.2	6.3	14.0	19.9	22.4	26.7	32.3	41.5
Hooker	47.0	52.4	57.7	62.0	70.7	77.9	83.3	87.4
Jones	87.9	92.7	93.7	94.3	96.9	96.0	98.5	98.6
Kennelly	--	.5	.4	4.6	3.8	6.2	10.3	13.7
Kinsella	45.0	48.2	58.7	62.0	76.2	83.4	87.2	88.8
Moylan/McDonough	18.9	21.0	23.5	32.1	39.9	44.2	45.2	53.3
Naylor	2.5	4.3	4.8	9.3	7.0	7.7	9.8	8.7
New Park	13.4	15.7	12.4	15.8	22.7	21.6	18.8	18.5
Rawson	44.9	54.3	61.6	70.3	84.2	90.5	90.3	91.1
Twain	35.7	45.0	51.6	58.0	69.7	80.7	85.7	99.7
Vine	95.1	97.4	97.5	98.6	99.2	98.7	98.3	90.4
Waverly/Simpson	--	--	--	--	--	99.7	99.2	99.4
Webster	.8	.9	2.3	7.9	8.3	10.9	13.9	21.6
West Middle	44.1	53.1	59.3	65.5	70.0	76.7	78.4	82.7
Wish	96.4	97.2	97.8	97.5	98.5	99.0	98.7	99.4
Fox Middle	--	--	--	--	--	--	97.2	97.1
Quirk Middle	--	--	--	--	--	--	81.3	72.0
Bulkeley High	2.6	3.0	2.6	5.5	9.2	15.6	21.3	22.2
HPHS	45.0	44.1	45.4	50.2	54.4	59.2	61.9	66.0
HPHS Annex	43.8	61.1	63.7	68.2	75.8	67.1	57.7	77.5
Weaver	55.4	60.7	69.3	79.8	88.2	95.9	97.5	98.0

* % Minority figures for students derived from addition of Black and Puerto Rican.

Source: Hartford Board of Education, Research Department, A Seven-Year Comparison of the Ethnic Distribution of Pupils by Schools 1965-1971, 1966-1972

TABLE B

RACIAL SEGREGATION IN
HARTFORD PUBLIC SCHOOLS

	WHITE SCHOOLS		MINORITY SCHOOLS		INTEGRATED SCHOOLS	
	#	Students Enrolled	#	Students Enrolled	#	Students Enrolled
1965	12	9413	9	8435	7	8263
1966	12	8727	9	10519	7	6770
1967	12	8846	11	11584	5	6534
1968	12	9169	12	14965	3	3409
1969	11	8265	15	15651	2	4633
1970	10	8358	17	15648	2	4504
1971	10	8305	18	18917	2	1410
1972	9	6499	19	19525	2	1925

Source: Hartford Board of Education, Research Department, "A Seven Year Comparison of the Ethnic Distribution of Pupils by Schools." 1965-1971, 1966-1972

TABLE C MINORITY POPULATION IN CENTRAL CITIES

1950 - 1970

(PER CENT)

	1950[1]	1954[2]	1960[3]	1970[4]
Atlanta	36.6	37.3	38.3	52.3
Baltimore	24.0	28.4	35.0	47.3
Beaumont	28.7	28.9	29.3	33.6
Buffalo	6.5	9.4	13.8	21.2
Charlotte	28.0	28.0	28.0	30.9
Chicago	13.6	17.3	22.9	40.0
Cincinnati	15.5	17.9	21.6	28.2
Cleveland	16.0	21.2	29.0	40.1
Dayton	14.0	17.1	21.8	31.0
Detroit	16.4	21.5	29.2	45.5
Gary	29.3	33.1	38.8	61.1
Harrisburg	11.3	14.7	19.7	31.2
Hartford	7.1	10.4	15.3	35.5
Memphis	37.0	37.0	37.0	39.4
Newark	17.2	24.1	34.4	61.4
New Haven	6.8	9.9	14.6	29.8
New Orleans	32.0	34.0	37.0	49.5
New York City	9.8	11.8	14.7	31.4
Oakland	14.5	19.3	26.4	44.3
Philadelphia	18.0	21.2	26.0	35.0
Pittsburgh	12.2	14.0	16.8	20.3
Richmond	32.0	36.0	42.0	42.7
St. Louis	18.0	22.4	28.8	41.8
San Francisco	5.6	7.4	10.1	27.6
Topeka	8.0	7.8	7.7	13.0
Trenton	11.3	15.8	22.5	40.3
Washington, D.C.	35.0	42.6	54.8	73.1
Wilmington	15.6	19.8	26.2	45.8

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* Approximation

Sources:

1. U.S. Bureau of the Census, U.S. Census of Population 1950. Vol. II, Characteristics of the Population, Parts 5, 7, 8, 9, 11, 13, 14, 16, 18, 20, 22, 30, 32, 33, 35, 38, 42, 43, 45, Tables 33, 62, U.S. Government Printing Office, Washington, D.C., 1952.

2. Straight line interpolation.

3. U.S. Bureau of the Census, U.S. Census of Population: 1960. Vol. I, Characteristics of the Population. Part 6, 8, 9, 10, 12, 15, 16, 18, 20, 22, 24, 32, 34, 35, 37, 40, 44, 45, 47, Table 21.

4. U.S. Bureau of the Census, Census of Population: 1970. General Social and Economic Characteristics, Final Report PC(1)-C, 8, 9, 10, 12, 15, 16, 18, 20, 22, 24, 32, 34, 35, 37, 40, 44, 45, 47, Tables 81, 91, 96

TABLE D NATIONAL POPULATION TRENDS FOR METROPOLITAN AREAS - 1950-1970

TOTAL POPULATION
(1,000,000)

	1950	1960	1970	% Change 1950-1970
Total Population	151.3	179.3	203.2	34.3
SMSA	94.6	119.6	139.4	47.4
Central City	53.8	60.0	63.8	18.6
Remainder	40.8	59.6	75.6	85.4

WHITE POPULATION
(1,000,000)

	1950	1960	1970	% Change 1950-1970
Total Population	135.2	158.8	177.6	31.4
SMSA	85.1	105.2	120.4	41.5
Central City	46.8	49.4	48.8	4.3
Remainder	38.3	55.7	71.6	87.0

BLACK POPULATION
(1,000,000)

	1950	1960	1970	% Change 1950-1970
Total Population	15.0	18.8	22.7	51.4
SMSA	8.9	12.7	16.8	89.7
Central City	6.6	9.9	13.1	98.2
Remainder	2.2	2.8	3.7	64.5

Source:

U. S. Bureau of the Census, Statistical Abstract of The United States, 1971. Table 14

TABLE E

INCOME CHARACTERISTICS IN 1969 AND 1959 OF FAMILIES BY SEX AND RACE OF HEAD AND METROPOLITAN RESIDENCE: 1970 AND 1960

(In 1969 dollars. Number of families in thousands)

Income characteristics	1969 Metropolitan areas		1959 Metropolitan areas	
	Inside central cities	Outside central cities	Inside central cities	Outside central cities
ALL RACES				
All families	14,704	18,446	14,715	13,869
Median income	9,157	11,003	7,417	8,351
Mean income	10,450	12,348	8,634	9,806
Families with male head	12,434	16,889	12,920	12,933
Median income	9,917	11,433	7,790	8,561
Mean income	11,254	12,863	9,079	10,109
Families with female head	2,270	1,557	1,795	936
Median income	4,908	5,824	4,177	4,590
Mean income	6,041	6,771	5,430	5,620
WHITE				
All families	11,759	17,576	12,447	13,317
Median income	9,797	11,155	7,881	8,486
Mean income	11,124	12,516	9,172	9,988
NEGRO				
All families	2,740	726	2,126	480
Median income	6,794	6,986	4,840	4,383
Mean income	7,575	8,291	5,399	5,077
NEGRO AS A PER CENT OF WHITE				
Median income	69.3	62.6	61.4	51.6
Mean income	68.1	66.2	58.9	50.8

Source: U.S. Bureau of the Census, Current Population Reports, Series P-23, No. 37, "Social and Economic Characteristics of the Population in Metropolitan and Nonmetropolitan Areas: 1970 and 1960," Table B, U.S. Government Printing Office, Washington, D.C., 1971.

TABLE F DISTRIBUTION OF PERSONS BELOW THE POVERTY LEVEL IN 1969 AND 1959 BY RACE AND METROPOLITAN RESIDENCE: 1970 AND 1960

Race and residence	1969		1959	
	Persons below poverty level	Percent below poverty level	Persons below poverty level	Percent below poverty level
ALL RACES				
United States..thousands	24,280	12.1	38,766	22.0
Percent	100.0	(X)	100.0	(X)
Metropolitan areas	50.7	9.5	43.9	15.3
Inside central cities	32.0	13.4	26.9	18.3
Outside central cities	18.8	6.3	17.0	12.2
WHITE				
United States..thousands	16,661	9.5	28,336	18.1
Percent	100.0	(X)	100.0	(X)
Metropolitan areas	49.2	7.3	41.7	12.0
Inside central cities	27.2	10.2	23.0	13.2
Outside central cities	22.0	5.4	18.7	10.4
NEGRO				
United States..thousands	7,213	32.3	9,927	55.1
Percent	100.0	(X)	100.0	(X)
Metropolitan areas	53.4	24.4	50.4	42.8
Inside central cities	42.5	24.7	38.4	40.8
Outside central cities	10.9	23.2	11.9	50.9

(X) Not applicable.

Source:

U.S. Bureau of the Census, Current Population Reports, Series P-23, No. 37 "Social and Economic Characteristics of the Population in Metropolitan and Non-metropolitan Areas: 1970 and 1960," Table D, U.S. Gov't Printing Office, Washington, D.C. 1971

TABLE G EMPLOYMENT IN ALL SMSA'S AND CENTRAL CITIES

(In millions)

	Manufacturing		Retail Trade		Wholesale Trade		Selected Services	
	1967	1958	1967	1958	1967	1958	1967	1958
UNITED STATES	19.3	16.0	9.6	7.8	3.6	2.8	3.9	2.9
Standard metropolitan statistical areas	*14.2	12.2	7.0	5.6	3.0	2.3	3.2	2.3
Central cities	7.8	7.3	4.1	3.8	2.0	1.8	*2.2	1.8
Outside central cities	*6.5	4.9	2.9	1.8	1.0	0.5	*1.0	0.6
Central City as Per cent of SMSA	54.5	59.9	58.7	67.9	67.1	77.9	69.7	76.3
	PER CENT OF UNITED STATES TOTAL							
UNITED STATES	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Standard metropolitan statistical areas	73.6	76.0	73.3	72.6	83.1	83.4	82.8	80.6
Central cities	40.1	45.3	43.0	49.3	55.8	65.0	57.7	61.6
Outside central cities	33.5	30.6	30.3	23.3	27.3	18.5	25.0	19.1
	PERCENTAGE CHANGE BETWEEN YEARS							
	1958 - 1967		1958 - 1967		1958 - 1967		1958 - 1967	
UNITED STATES	20.6		23.5		28.6		33.6	
Standard metropolitan statistical areas	17.0		24.7		28.1		37.2	
Central cities	6.8		7.7		10.5		25.3	
Outside central cities	32.0		60.6		90.2		75.3	

* Rounding is based on midpoint of ranges shown in table I-1 to avoid disclosing figures of individual companies.

Source: U.S. Bureau of the Census, Special Economic Reports, Employment And Population Changes - Standard Metropolitan Statistical Areas And Central Cities, Series ES20(72)-1, Summary Table 1, U.S. Government Printing Office, Washington, D.C., 1972.

HARTFORD REGION AS AN EXAMPLE OF COMMUNITY INTERLOCK WITHIN A METROPOLITAN REGION.

I. FUNCTIONAL ADMINISTRATION REFLECTS UNDERLYING REGIONAL COMMUNITY OF INTEREST OF GOVERNMENTAL UNITS.

A. The Federal Government Recognizes The Metropolitan Entity

1. Department of Commerce — Hartford SMSA and SEA
2. Department of Labor — Hartford LMA, CAMPS
3. Department of Justice — LEAA grant for Criminal Justice Planning
4. Department of Housing and Urban Affairs — 701 Regional Planning Grants
5. Department of Health, Education and Welfare — Comprehensive Health Planning Region

B. Connecticut State Administrative Areas Have A Regional Focus

1. Human Rights and Opportunities
2. Services for Elderly Persons
3. Parks and Forests
4. Consumer Protection
5. Finance and Control
6. Health
7. Mental Health
8. Development
9. Highway
10. Interregional Planning
11. Judicial
12. Labor
13. Civil Defense
14. Criminal
15. Real Estate
16. Safety
17. State Police
18. Tax
19. Transportation

C. Local Government Recognition of the Regional Community of Interest

1. Greater Hartford Council of Governments
2. Capitol Region Library Council
3. Community Renewal Team of Greater Hartford
4. Greater Hartford Flood Commission
5. Metropolitan District Commission
6. Greater Hartford Transit District

II. BUSINESS AND INDUSTRIAL INTERACTION IS BASED UPON THE REGIONAL COMMUNITY OF INTEREST.

A. Hartford Is An Important Employment Center for Workers Throughout The Region*

1. Of the total employment in the 9 towns 53% work in Hartford[1]
2. Of the total manufacturing employment in the 9 towns, 58% work in Hartford[2]

B. Sales Patterns Demonstrate the Regional Dependence Upon Hartford

1. 36% of all retail sales of the 9 towns are in Hartford[3]
2. 55% of all wholesale trade in 6 towns (all available information) in Hartford[4]

C. 71% Of The Manufacturing Firms Relocated Between 1962-1971 Chose to Remain Within the Region[5]

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*Hartford, Bloomfield, East Hartford, Glastonbury, Newington, South Windsor, West Hartford, Wethersfield, Windsor.

D. The Suburban Towns Require the Financial Facilities of the City — 75% of the Banking Facilities in the 8 Towns are Hartford-based Banks[6]

E. Many Business and Industrial Groups Recognize the Need For a Regional Organization

1. The Greater Hartford Chamber of Commerce
2. Manufacturing Association of Hartford County
3. Greater Hartford Small Business Corporation, Inc.

III. MANY NON-PROFIT, PUBLIC, AND PRIVATE SERVICES ARE PROVIDED FOR THE ENTIRE REGION.

A. Certain Public Welfare Activities Serve the Metropolitan Area

1. Capitol Region Crime Squad organized for Drug and cooperative action
2. Hartford County Fire Line
3. Public Housing — 76% of 9 towns is in Hartford[7]
4. District Offices for all social services located in Hartford
5. Hartford is the emergency drug center of region

B. Many Social Service Agencies Serve All 9 Towns

1. Community Renewal Team of Greater Hartford
   a. Neighborhood Youth Corps
   b. Programs for the Elderly
2. Greater Hartford Community Council
   a. Coordination of all Social Service agencies
   b. Research and information center for those needing help

3. Greater Hartford Council of Churches
4. Greater Hartford Council on Alcoholism and Drugs
5. Greater Hartford Assoc. for Retarded Children
6. Capitol Region Mental Health Planning Commission
7. Capitol Region Health Planning Council

C. Regional Interaction is Reflected in the Use of Health Care Facilities

1. Hospital use — 80% of the hospital patients from the 8 towns use Hartford's Hospital facilities[8]
2. Nursing Homes and extended care facilities — figures show a tremendous amount of interaction between the 9 towns in the provision of these services
3. Birth and Death — 84% of all births to 8 towns residents and 50% of all 8 towns deaths took place in Hartford[9]

D. The Whole Region Depends Upon the Tax-Exempt Properties Located in Hartford

1. 52% of all tax-exempt properties of the region are in Hartford[10]
2. 100% of the correctional tax-exempt properties of the region are in Hartford[11]
3. 75% of the Armories are in Hartford[12]
4. 66% of the Health facilities are in Hartford[13]
5. 65% of tax-exempt administrative properties are in Hartford[14]
6. 52% of the charitable properties are in Hartford[15]

7. 43% of the educational properties are in Hartford[16]

E. Professional Services Are Most Efficiently Provided From the Center of the Region

1. 70% of all lawyers have offices in Hartford[17]
2. 50% of all accountants have offices in Hartford[18]
3. 60% of all physicians have offices in Hartford[19]

IV. PUBLIC UTILITIES, COMMUNICATION AND TRANSPORTATION FACILITIES REFLECT A COMMUNITY OF INTEREST.

A. Utilities Are Provided on a Metropolitan Basis

1. Entire area served by the same Electric Company
2. All 9 towns are served by the same Gas Company (Ct. Natural Gas)
3. All 9 towns are either members or use the MDC water and sewerage facilities

B. Telephone and Telegraph Services Are Regionally Based

1. The 9 towns form a single free dialing area and are served by a single phone book
2. Hartford is the central dispatch office for all Western Union in-coming materials

C. The Suburban Communities Subscribe to Hartford Newspapers

1. Hartford Courant — Hartford 14%; 8 towns 30%[20]
2. Hartford Times — Hartford 29%; 8 towns 40%[21]

D. The Nine-Town Region Comprises the Primary Listening Audience for Local Television and Radio Broadcasting Stations

E. The Locus of the Regional Transportation Network is the Central City

1. Greater Hartford Transit District
2. Hartford is the heart of the regional highway system
3. Hartford is the regional terminal for rail and bus transportation

V. AREA TOWNS UTILIZE REGIONAL CULTURAL AND EDUCATIONAL FACILITIES.

A. Cultural Activities Attract A Regional Audience

1. Four times as many suburban residents maintain regular memberships in Hartford's Bushnell Memorial Auditorium as city residents[22]
2. Suburban residents comprise over 50% of the membership of Wadsworth Atheneum located in Hartford[23]

B. Certain Educational Facilities and Organizations Reflect the Regional Community of Interest

1. 21% of the enrollment in Hartford State Technical College from 8 towns[24]
2. 42% of the enrollment in Greater Hartford Community College from 8 towns[25]
3. 27 out of 37 Institutions of Higher Learning in the 9 towns are in Hartford[26]
4. Greater Hartford Consortium on Higher Education

5. Greater Hartford Council on Economic Education

6. Capitol Region Education Council
   a. Cooperative Purchasing Program
   b. Special Programs for Disabled Children Agreements
   c. 13 other cooperative programs to improve and share educational knowledge

FOOTNOTES TO APPENDIX

[1]Connecticut Labor Department, Employment Security Division, *Monthly Bulletin* (December 1967, 1968, 1972; November, 1970).
[2]U.S. Bureau of the Census, *Census of Manufacturers (Connecticut)* (1958, 1963, 1967), Table 4.
[3]Connecticut Department of Commerce, Connecticut Development Commission, *Market Data* 1972-1973, p. 60.
[4]U.S. Bureau of the Census, *Census of Business Wholesale Trade Statistics (Connecticut)* (1967), Table 4 and 7.
[5]Connecticut Labor Department, *New Manufacturing Firms* (1962-1971)
[6]Banking Commission of the State of Connecticut, Annual Report for 1972.
[7]Connecticut State Tax Department, Tax Commissioner of Real Estate, Quadrennial Statement of Real Estate Exempted From Taxation (1970).
[8]Connecticut Health Department, Division of Hospital and Medical Care, Survey (1972).
[9]State of Connecticut, Department of Vital Statistics.
City of Hartford, Department of Vital Statistics.
[10]State Tax Department, *loc. cit.*
[11]*Ibid.*
[12]*Ibid.*
[13]*Ibid.*
[14]*Ibid.*
[15]*Ibid.*
[16]*Ibid.*
[17]Survey of Hartford Telephone Directory Yellow Pages.
[18]*Ibid.*
[19]*Ibid.*
[20]*The Hartford Courant*, Circulation Records.
[21]*The Hartford Times*, Circulation Records.
[22]Bushnell Memorial Auditorium, Membership records (1973).
[23]Wadsworth Atheneum, Membership Records (1972).
[24]Hartford State Technical College, Admission Records (1973).
[25]Greater Hartford Community College, Admissions Records (1973).
[26]State Department of Education, Commission for Higher Education, *Higher Education In Connecticut*, 1973-1974

In accordance with a Resolution adopted by the Court of Common Council of the City of Hartford on December 10, 1973, the Office of the Corporation Counsel was duly authorized to take all steps necessary to prepare and submit a Brief Amicus Curiae to Docket Nos. 73-434, 73-435 and 73-436 of the United States Supreme Court, October Term, 1973.

Pursuant thereto, Thomas K. Standish, Assistant Professor of Economics at the University of Hartford, in his capacity as the city's economic consultant, with his research staff, Rona Wilensky, Patricia Plourde and Steven M. Greenberg, assisted in providing the socio-economic analysis and statistical support for the arguments contained herein. Public funds of the City of Hartford were authorized and appropriated therefor.